
Introduced by Senator Poochigian

February 23, 2001

An act to amend Section 41020 of the Revenue and Taxation Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 896, as introduced, Poochigian. Telecommunications services.

The United States Congress enacted the Mobile Telecommunications Sourcing Act for the purpose of establishing uniform nationwide sourcing rules for state and local taxation of mobile telecommunications services. In order to create a single, uniform sourcing rule, the federal act preempts, in part, state and local law.

Existing state law imposes taxes, surcharges, and fees on mobile telecommunications charges, including an emergency telephone surcharge.

The bill would amend the existing law that imposes the emergency telephone surcharge on mobile telecommunications to reflect the changes made by the federal act.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds that the United States
2 Congress has enacted the Mobile Telecommunications Sourcing
3 Act for the purpose of establishing uniform nationwide sourcing
4 rules for the state and local taxation of mobile communications
5 services. The federal act creates a uniform sourcing rule that was
6 intended to be revenue-neutral among the states. In order to create



1 a single, uniform sourcing rule, the federal act preempts, in part,
2 state and local law. The Legislature desires to adopt implementing
3 legislation with respect to certain tax laws enacted by this state,
4 and to conform those tax laws to the federal uniform sourcing rule
5 to the extent there is otherwise a conflict. By enacting this
6 legislation, the Legislature is not, and is not intending to, enact any
7 new taxes or to increase the tax rate or tax base of any tax.

8 SEC. 2. Section 41020 of the Revenue and Taxation Code is
9 amended to read:

10 41020. (a) A surcharge is hereby imposed on amounts paid
11 by every person in the state for intrastate telephone
12 communication service in this state commencing on July 1, 1977.

13 ~~The~~

14 (b) *The surcharge imposed under this section does not apply to*
15 *any charges for mobile telecommunications services billed to a*
16 *customer where those services are provided, or deemed provided,*
17 *to a customer whose place of primary use is outside this state.*
18 *Mobile telecommunications services shall be deemed provided by*
19 *a customer's home service supplier to the customer if those*
20 *services are provided in a taxing jurisdiction to the customer, and*
21 *the charges for those services are billed by or for the customer's*
22 *home supplier.*

23 (c) *For purposes of this section:*

24 (1) *"Charges for mobile telecommunications services" means*
25 *any charge for, or associated with, the provision of commercial*
26 *mobile radio service, as defined in Section 20.3 of Title 47 of the*
27 *Code of Federal Regulations, as in effect on June 1, 1999, or any*
28 *charge for, or associated with, a service provided as an adjunct to*
29 *a commercial mobile radio service, that is billed to the customer*
30 *by or for the customer's home service provider, regardless of*
31 *whether individual transmissions originate or terminate within the*
32 *licensed service area of the home service provider.*

33 (2) *"Customer" means (A) the person or entity that contracts*
34 *with the home service provider for mobile telecommunications*
35 *services, or (B) if the end user of mobile telecommunications*
36 *services is not the contracting party, the end user of the mobile*
37 *telecommunications service. This paragraph applies only for the*
38 *purpose of determining the place of primary use. The term*
39 *"customer" does not include (A) a reseller of mobile*
40 *telecommunications service, or (B) a serving carrier under an*

1 arrangement to serve the customer outside the home service
2 provider's licensed service area.

3 (3) "Home service provider" means the facilities-based
4 carrier or reseller with which the customer contracts for the
5 provision of mobile telecommunications services.

6 (4) "Licensed service area" means the geographic area in
7 which the home service provider is authorized by law or contract
8 to provide commercial mobile radio service to the customer.

9 (5) "Mobile telecommunications service" means commercial
10 mobile radio service, as defined in Section 20.3 of Title 47 of the
11 Code of Federal Regulations, as in effect on June 1, 1999.

12 (6) "Place of primary use" means the street address
13 representative of where the customer's use of the mobile
14 telecommunications service primarily occurs, that must be:

15 (A) The residential street address or the primary business street
16 address of the customer.

17 (B) Within the licensed service area of the home service
18 provider.

19 (7) (A) "Reseller" means a provider who purchases
20 telecommunications services from another telecommunications
21 service provider and then resells the services, or uses the services
22 as a component part of, or integrates the purchased services into,
23 a mobile telecommunications service.

24 (B) "Reseller" does not include a serving carrier with which
25 a home service provider arranges for the services to its customers
26 outside the home service provider's licensed service area.

27 (8) "Serving carrier" means a facilities-based carrier
28 providing mobile telecommunications service to a customer
29 outside a home service provider's or reseller's licensed area.

30 (9) "Taxing jurisdiction" means any of the several states, the
31 District of Columbia, or any territory or possession of the United
32 States, any municipality, city, county, township, parish,
33 transportation district, or assessment jurisdiction, or any other
34 political subdivision within the territorial limits of the United
35 States with the authority to impose a tax, charge, or fee.

36 (d) The surcharge imposed shall be at the rate of one-half of 1
37 percent of the charges made for such services to and including
38 November 1, 1982, and at ~~such~~ a rate as shall be fixed pursuant to
39 Article 2 of the chapter thereafter.

40 ~~The~~

1 (e) *The* surcharge shall be paid by the service user as hereinafter
2 provided.

O

